

WATER COUNCIL MEETING

Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

April 14, 2004
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, Densberger, DiMarzio, Funk, Glines, Ingham, Patenaude, Phillips, and Varotsis

Members absent: Councilor Flynn or his designee, David Barrett; Councilor McLeod or his designee, Johanna Lyons; Councilor Manoogian or her designee, Ben Frost; and Councilor Stephen or his designee, Brook Dupee.

Chairman Bridges opened the meeting at 9:00 a.m. Mr. Bridges extended a welcome to George R. Glines who was recently appointed to represent agricultural interests on the Water Council.

1. Approval of Minutes of March 10, 2004 Meeting

A motion was made by Councilor Bradley to accept the minutes of the March 10, 2004 meeting as presented. The motion was seconded by Councilor Funk and it was unanimously voted.

2. Approval of State Aid Grants

Steve Snell of the Wastewater Engineering Bureau requested approval of seven state aid grants as stated in a memo from Bureau Administrator, John R. Bush to Harry T. Stewart dated April 2, 2004.

Councilor Ingham moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Varotsis seconded the motion and it was unanimously voted.

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Exeter	C-667	WWTF Outfall Improvements	\$ 144,096
WRBP*	C-668	Main Interceptor Flow Meters	11,894
WRBP*	C-669	Laconia Compound Improvements, Phase II	63,693
WRBP*	C-670	Laconia Compound Roof Improvements	47,145
Manchester	C-671	Spruce Street Interceptor	153,833
Colebrook	C-672	Pleasant Street Sewerage Improvements	17,185
Newport	C-673	South Main Street Sewer	87,279

*Winnepesaukee River Basin Program

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants, and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

3. Appeals Update

Michael Sclafani distributed an Appeals Status Report and reviewed the report with the Council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**

A stay remains in effect on this appeal. The water quality certificate issued to Endicott General Partnership, Joseph Falzone, Trustee for the Falls Way Subdivision in Greenland, which is the subject of this appeal, is related to the granting of a Wetlands permit to remove groundwater. Both CLF and the Greenland Conservation Commission have appealed to the Wetlands Council the granting of the Wetlands permit and DES's order denying reconsideration of its decision.

- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**

A stay remains in effect. On April 12, 2004, a Unanimous Request to Continue Stay was filed, copies of which were distributed to the councilors. Attorney Patterson, Attorney for DES, advised the council that the essential issue in this case is whether it was appropriate for DES to deny a waiver of the 500' setback from Mr. Bell's septage facility to an abutter's property line. While the appeal to the Water Council was pending and a hearing scheduled, Mr. Bell's attorney filed an action in Superior Court seeking a declaratory judgment on the same issue and the parties are litigating the matter in Merrimack County Superior Court. Ms. Patterson does not anticipate resolution of the case prior to this fall. All three parties in this case, i.e., DES, Mr. Bell and the abutter, Mr. Cote, are parties to the Superior Court action and have also signed the Unanimous Request to Continue Stay.

Councilor Varotsis made a motion to grant the Unanimous Request to Continue Stay pending resolution of the declaratory judgment action in the Merrimack County Superior Court. Councilor Phillips seconded the motion and it was unanimously voted.

- **Docket No. 04-01 WC - Appeal of Town of Nottingham**
Docket No. 04-02 WC - Appeal of Town of Barrington

The parties to these appeals have reached a settlement agreement and withdrawals of both appeals were filed on March 19, 2004.

- **Docket No. 04-05 WC - Freudenberg-NOK General Partnership**

A stay remains in effect on this appeal pending a determination of title acceptable to Freudenberg-NOK and the Water Division.

4. Proposed Public Water Supply Grants Rules

Robert Mann, P.E., Water Supply Engineering Bureau, presented proposed amendments to Env-Ws 393, Public Water Supply Grants rules. The rules currently provide grants primarily to the municipal water systems which in the past built treatment plants in response to the Surface Water Treatment Rule. By legislation that was finalized in 2003, this program was expanded to provide grants in two additional areas of water system improvements. One area is the interconnection of public water systems for security or to provide backup due to water quality or quantity problems. The second area would be to provide grants to water systems that have chemical contamination. The grants program would provide 25% reimbursement of eligible costs to investigate those wells and to determine the best way to remediate the groundwater. The legislature provided a budget appropriation for this purpose in the 2004-2005 biennium. With the adoption of these rules, DES will initiate an application process and award grants by the end of 2004. Mr. Mann solicited comments from the councilors on the proposed amendments.

5. Proposed NH Drinking Water Rules

Selina Makofsky, Water Supply Engineering Bureau, presented proposed changes to Env-Ws 300, NH Drinking Water Rules. Ms. Makofsky explained that the proposed minor changes and corrections will make the NH rules as stringent as the federal Environmental Protection Agency's Safe Drinking Water Act. Ms. Makofsky requested that council members submit comments on the rules.

6. Proposed Water Conservation Rules

Brandon Kernen, P.G., Water Supply Engineering Bureau, discussed proposed Water Conservation Rules, Env-Ws 390. RSA 485:61 which was adopted in 2002 requires DES to develop water conservation best management practices for new groundwater withdrawals associated with community water systems, new large groundwater withdrawals, and new withdrawals that require a CWA Section 401 Water Quality Certificate. An advisory committee composed of a broad spectrum of stakeholders was formed and draft rules were developed which will ensure that cost-effective water efficiency measures are implemented for new sources of water supply.

Councilor Densberger encouraged DES to also explore groundwater conservation efforts which would apply to private wells as well as public water supplies.

7. Exotic Species: Milfoil Problem and Program Status

Amy Smagula, Exotic Species Program Coordinator at DES, reported on New Hampshire's Exotic Species Program. New Hampshire is home to approximately 950 lakes, 60 of which are infested with exotic species. Currently, there are five species found in New Hampshire: variable milfoil, Eurasian milfoil, fanwort, water chestnut and Brazillian elodea. Of these five, variable milfoil is the most prevalent and is known to invest 53 waterbodies. Another species, hydrilla which looks similar to Brazillian elodea, is more aggressive than milfoil and has been found in both Maine and Massachusetts waters. It has not yet been detected in New Hampshire.

Once an exotic species takes hold in a waterbody, it grows quickly and takes over a system. This reduces the aesthetic, recreational and economic value of the waterbody and reduces its ecology and diversity. Although at this point these exotic species cannot be eradicated once they have infested a system, they can be controlled.

Exotic species control is funded through a \$5.00 fee added to the state boat registration fee. \$3.00 of this fee is used for prevention and research grants to lake associations, municipalities, institutions of higher learning and other state agencies. DES has focused on proactive prevention and early detection strategies to manage exotic species through its Lake Host and Weed Watchers programs. DES also has developed education and outreach programs targeting diverse groups.

The management practice for a small infestation may be hand-pulling by DES divers. If the patch is too large for hand-pulling, a mesh screening may be put down which pushes the plants to the bottom of the lake. This avoids fragmentation of the plants and also prevents the plants from photosynthesizing. The other option is herbicides, which are effective, but even a small untreated fragment of milfoil can result in a re-infestation.

Senator Judd Gregg has procured two grants (\$500,000 each from EPA and NOAA) to fund research on variable milfoil in NH. The research will focus on genetics, biology, ecology, chemistry, economics and control. DES has sent out requests for conceptual proposals to institutions of higher learning with a response deadline of April 15, 2004.

8. Legislative Update

Russ Nylander, P.E., updated the council on recent legislation. As a result of council action at its March meeting and testimony at the hearing before the Senate, SB 534 was changed to require consultation and consent of the Water Council and Air Resources Council for the appointment by the commissioner of the directors of the respective divisions. This bill was heard in the House last week and subcommittee sessions are being held this week. As the bill stands now, DES will oversee the Bureau of Environmental and Occupational Health from Health and Human Services and the Coastal Zone Management Program and estuaries project from the Office of Energy and Planning. However, the transfer of DHHS's Radiological Health Program is uncertain.

9. Other Business

Councilor Butler commended Steve Densberger for his well-presented testimony of the council's position on SB 534 at the Senate hearing.

10. Next Meeting

The next meeting will be May 12, 2004.

11. Adjournment

The meeting adjourned at approximately 10:15.